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10/695,817	10/30/2003	Shinobu Tanaka	Q77969	7177

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EXAMINER

AMAYA, CARLOS DAVID

ART UNIT	PAPER NUMBER
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2836

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10/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/695,817

Applicant(s)

TANAKA, SHINOBU

Examiner

Carlos Amaya

Art Unit

2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/24/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The newly amended claim 1 recites substantially the same subject matter of claim 5.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8-13, 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kito (JP 08237734).

With respect to claim 1 Kito discloses an apparatus for preventing an unqualified person from driving a vehicle (car antitheft device), comprising: a marker detector provided in the vehicle (receiver 12 provided in the vehicle as shown in the figures) to detect a qualified person marker (transponder 11) held by a driver having a driving qualification appropriate for driving the vehicle (only authorized personnel hold the transponder 11 to operate a cash transport truck, for example, paragraph 0001) only when the driver holds the qualified person marker opposite the marker detector (as

shown in the figures 1 and 3 the marker detector, receiver 12, detects the marker, transponder 11 ONLY when the marker is hold opposite the marker detector. Shoe and gas pedal are connected by magnetic coupling, paragraph 0021); and a control unit (ECU 16) for continuously monitoring an output from the marker detector and taking a predetermined measure to ensure safety when a state occurs in which the qualified person marker is not detected (paragraph 0010-0012, continuously monitoring of the transponder 11 is carry out by ECU 16, since once the two are separated power is no longer provided to transponder 11, horn 21 and head lights 22 are operated and engine halt is carry out when the two are separated, paragraph 0028-0033), wherein the predetermined measure is released when the marker detector again detects the qualified person marker (one of ordinary would have envisioned providing access to the vehicle when the authorized person holding the transponder 11 gets in the car after it has stopped, to operate the car once it has been recovered from a theft attempt, for example).

With respect to claim 2,9 Kito discloses the apparatus as claimed in one of the claims, wherein the measure is a warning for appealing to the sense of sight or the sense of hearing of the driver (horn 21 and headlight 22 are operated when ECU 16 does not detect transponder 11, paragraph 0033-0034).

With respect to claim 3, 10 Kito discloses the apparatus as claimed in one of the claims, wherein the measure is stopping the driving of the vehicle (halt of the vehicle is performed when ECU 16 does not detect transponder 11, paragraph 0033-0034).

With respect to claim 4, 11 Kito discloses the apparatus as claimed in one of the claims, wherein the measure comprises a warning for appealing to the sense of sight or the sense of hearing of the driver and the stopping of the driving of the vehicle is performed after the warning (horn 21 and headlight 22 are operated when ECU 16 does not detect transponder 11 position in a shoe of a driver and halt of the vehicle is performed after certain time, paragraph 0033-0034).

With respect to claim 5 Kito discloses the apparatus as claimed in claim 1, wherein the measure is released when the marker detector again detects the qualified person marker. One of ordinary would have envisioned providing access to the vehicle when the authorized person holding the transponder 11 gets in the car after it has stopped.

With respect to claim 6 Kito the apparatus as claimed in claim 1, wherein the control unit takes the measure when a state occurs in which the qualified person marker is not detected for a predetermined time period (paragraph 00032).

With respect to claim 8 Kito discloses an apparatus for preventing an unqualified person from driving a vehicle (car antitheft device), comprising: a marker detector (receiver 12) provided in a floor of a cab of the vehicle (paragraph 0044 discloses that the receiver 12 can be provided in a surface of a floor) to detect a qualified person marker provided in a shoe worn (transponder 11 is positioned in a shoe see fig. 3) by a driver having a driving qualification appropriate for driving the vehicle (authorized personnel to drive the vehicle); and a control unit (ECU 16) for monitoring an output from the marker detector and taking a predetermined measure to ensure safety when a

state occurs in which the qualified person marker is not detected (paragraph 0010-0012, continuously monitoring of the transponder 11 is carry out by ECU 16, since once the two are separated power is no longer provided to transponder 11, horn 21 and head lights 22 are operated and engine halt is carry out when the two are separated, paragraph 0028-0033), wherein the predetermined measure is released when the marker detector again detects the qualified person marker (one of ordinary would have envisioned providing access to the vehicle when the authorized person holding the transponder 11 gets in the car after it has stopped, to operate the car once it has been recovered from a theft attempt, for example).

With respect to claim 12 Kito discloses the apparatus as claimed in claim 8, wherein the marker detector detects the qualified person when the qualified person marker provided in a shoe is disposed opposite the marker detector provided in the floor of the cab. The marker detector (receiver 12) detects the marker (transponder 11) ONLY when the marker is hold opposite the marker detector by magnetic coupling paragraph 0021. Paragraph 0045 discloses providing transponder 11 is placed in a shoe and receiver in a surface floor of a vehicle).

With respect to claims 13,16 Kito discloses the apparatus as claimed in one of the claims , the marker detector further comprising: a receiving antenna (antenna coil 17 fig. 1); a power source unit connected to the receiving antenna and configured to generate an electrical power signal in response to an electromagnetic signal coupling into the receiving antenna (antenna 17 severs as the coil for power transmission, paragraph 0019 and 0021); a modulation unit (amplifier 18) powered by the electrical

power signal and configured to modulate a signal identifying the qualified person marker (paragraph 0019 amplifier 18 makes a digital signal of the receive code) and indicating that a driver of the vehicle is qualified to drive the vehicle (amplifier 18 transmits the code to ECU 16, which makes the comparison of the received code an the pre-stored code); and a sending antenna connected to the modulation unit and configured to transmit the modulated signal (magnetic-flux generating circuit 19, paragraph 0020), wherein the qualified marker is disposed in a shoe of a driver qualified to drive the vehicle (see figure 3).

With respect to claim 15, 17 Kito discloses the qualified person marker claimed in one of the claims, wherein the receiving antenna receives the electromagnetic signal from a marker detector located in the vehicle only when the qualified person marker is placed opposite the marker detector (as shown in the figures 1 and 3 the marker detector (receiver 12) detects the marker (transponder 11) ONLY when the marker is hold opposite the marker detector. Shoe and gas pedal are connected by magnetic coupling, paragraph 0021).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kito (JP 08237734) in view of Thorpe (UK GB 2,395,331 A).

With respect to claim 7 Kito discloses the apparatus of claim 1, however, does not disclose expressly a driver detector for detecting the presence or absence of a driver riding on the vehicle.

Thorpe discloses a driver detector (seat pressure pad 120, Page 10 lines 24-26) for detecting the presence or absence of a driver riding on the vehicle (Page 10 lines 27-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the driver detector disclosed by Thorpe in Kito's invention.

The suggestion or motivation for doing so would have been to detect the presence of an unauthorized operator sitting in the driver's seat as disclosed by Thorpe, Page 11 lines 1-6.

Response to Arguments

6. Applicant's arguments filed 7/6/2007 have been fully considered but they are not persuasive.

With respect to the argument that Kito does not disclose "wherein the predetermined measure is released when the marker detector again detects the qualified person marker". It is submitted that the device disclosed by Kito is for a theft prevention device used in cash transportation vehicles, thus if an authorized person enters the vehicle and restarts the engine after the vehicle has been stopped and the lights and the horn are one (after a theft attempt); operation of the vehicle must be

granted to the qualified person holding the marker detector, since the codes will match (see figure 6).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Amaya whose telephone number is (571) 272-8941. The examiner can normally be reached on M-F 8-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Sherry can be reached on (571) 272-2800. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/695,817
Art Unit: 2836

Page 9

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CA



10/26/07

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